

Montana Water Court
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MONTANA WATER COURT
LOWER MISSOURI DIVISION
MILK RIVER BELOW WHITEWATER CREEK INCLUDING PORCUPINE CREEK
BASIN 400
INTERLOCUTORY DECREE

CLAIMANTS: Buggy Creek Livestock LLLP; **State of Montana Board of Land Commissioners**

OBJECTORS: State of Montana Board of Land Commissioners; United States, DOI Bureau of Indian Affairs; United States, DOI Bureau of Land Management

NOTICE OF INTENT TO APPEAR: Assiniboine & Sioux Tribes of Fort Peck

CASE 400-0001-I-2024
400 30136580
400 30175060

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above-stamped date. Please review this report carefully.

You have **13 days** from the service date of the notice of filing of this report to file a written objection or request an extension of the objection period. Rule 23, Water Right Adjudication Rules; Rule 6, Montana Rules of Civil Procedure. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

The State of Montana Board of Land Commissioners ["TLMD"], United States of America (Bureau of Indian Affairs) ["BIA"], and United States of America (Bureau of Land Management) ["BLM"] each objected to this claim. The Assiniboine & Sioux Tribes of Fort Peck ["Tribes"] filed a notice of intent to appear. This claim appeared in the Interlocutory Decree with various issue remarks and notice remarks.

On January 29, 2026, Buggy Creek Livestock LLLP's Statement And Unopposed Motion To Amend Claims To Resolve Issue Remarks And Objections ["Motion"] [FCE Doc. 23]. On February 12, 2026, the BLM filed United States' Statement On Claimant's Motion To Amend. On March 31, 2026, Buggy Creek Livestock LLLP's Notice Of Filing Proposed Post Decree Abstract And Proposed Implied Or Split Claim Abstract [FCE Doc. 26] was filed. On April 15, 2026, the United States' Statement Regarding Claimant's Proposed Abstracts [FCE Doc. 29] was filed. These documents are viewable in the Court's FullCourt Enterprise case management system.

APPLICABLE LAW

The Montana Water Court has jurisdiction over all matters relating to the determination of existing water rights. Section 3-7-224, MCA.

"All issue remarks to claims that are not resolved through the filing of an objection as provided in 85-2-233 must be resolved as provided in this section." Section 85-2-248(2), MCA.

Rule 2(a)(33), W.R.C.E.R., states: "'Implied Claim' means a claim authorized by the water court to be separated and individually identified when a statement of claim includes multiple rights."

Rule 2(a)(63), W.R.C.E.R., states: "'Split Claim' means the division of one water right claim into two or more separate claims. When a claim is split, one portion of the claim maintains the original claim number and the other separated portions are assigned new claim numbers."

A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content pursuant to section 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed

prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect, including for claimants objecting to their own claims. Rule 19, W.R.Adj.R.

FINDINGS OF FACT

1. Claim 400 30136580 appeared in the Interlocutory Decree with the following remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT APPEAR TO BE REDUNDANT FILINGS. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED. 400 30136579, 400 30136580.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT APPEAR TO BE REDUNDANT FILINGS. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED. 400 30136580, 400 30136644.

THE OWNERSHIP OF THIS RIGHT MAY BE QUESTIONABLE. PART OF THE PLACE OF USE APPEARS TO BE ON STATE LAND.

THE OWNERSHIP OF THIS RIGHT MAY BE QUESTIONABLE. PART OR ALL OF THE PLACE OF USE APPEARS TO BE ON FEDERAL LAND.

THE PRIORITY DATE MAY BE QUESTIONABLE. ACCORDING TO INFORMATION IN THE CLAIM FILE, IT APPEARS WATER FROM THE SOURCE WAS FIRST USED IN 1915.

All of the remarks should be removed as having served their notice purposes.

2. The Unopposed Motion requests generation of an implied claim from the claim in this Case. The Unopposed Motion does not request dividing the claim because two different water rights are claimed, a prerequisite for generating an implied claim. Instead, what is requested is dividing the claimed right into a separate claim for each owner. A split claim rather than an implied claim should be generated for the Montana State Board of Land Commissioners - Forestry and Trust Lands Division portion of the claimed right.

3. The Unopposed Motion states that Montana State Board of Land Commissioners - Forestry and Trust Lands Division ["TLMD"] owns part of the claimed right. Claim number 400 30136580 should be used for the Buggy Creek Livestock LLLP portion of the claimed right. Split claim number 400 30175060 should be generated for the TLMD portion of the claimed right.

4. For claim 400 30136580, the Interlocutory Decree states that the priority date is AUGUST 15, 1935. The priority date should be AUGUST 28, 1915.

The Interlocutory Decree includes 37 points of diversion and places of use. Using the point of diversion and place of use numbers that appeared in the Interlocutory Decree, the following changes should be made:

- POD/POU 1: change SE to NWSE
- POD/POU 5: change SW to W2SW
- POD/POU 9: change N2 to NW
- POD/POU 12: add Gov't Lot 6, remove S2SW
- POD/POU 13 and 14: delete
- POD/POU 16: add Gov't Lot 6, remove SWNE
- POD/POU 18: change W2SE to SWSE
- POD/POU 19: add Gov't Lot 8, remove SESE
- POD/POU 21: delete
- POD/POU 32: change N2 to W2NE
- POD/POU 35: delete
- Add: S2SE 5, 32N, 40E, VALLEY, on an UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
- Add: Gov't Lot 11, 4, 32N, 40E, VALLEY, on an UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
- Add: Gov't Lot 12, 4, 32N, 40E, VALLEY, on an UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
- Add: SWNE 9, 32N, 40E, VALLEY, on an UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
- Add: Gov't Lot 3, 9, 32N, 40E, VALLEY, on an UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
- Add: Gov't Lot 4, 9, 32N, 40E, VALLEY, on an UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
- Add: Gov't Lot 7, 15, 32N, 40E, VALLEY, on an UNNAMED TRIBUTARY OF PORCUPINE CREEK
- Add: NENW 9, 31N, 40E, VALLEY, on an UNNAMED TRIBUTARY OF PORCUPINE CREEK

As requested, the following remarks should be added to the place of use:

ALL OR A PART OF THE PLACE OF USE CONSISTS OF FEDERAL PUBLIC LANDS. THE WATER RIGHT USED ON THE PUBLIC LANDS IS APPURTENANT TO THE FOLLOWING PRIVATE LANDS: W2W2 LOT 2, LOT 3, LOT 4, S2NW, W2W2SWNE, W2NESW, SWSW, W2SESW SECTION 1, LOT 1, E2 LOT 2, S2NE, E2SW, SE OF

SECTION 2, E2, E2NW SECTION 11, NENE, N2NW, S2N2, NWSE, N2SW SECTION 13, NE SECTION 14, TOWNSHIP 30N, RANGE 40E.

THE USE OF THIS WATER RIGHT IS LIMITED TO LANDS LYING OUTSIDE THE EXTERIOR BOUNDARIES OF THE FORT PECK INDIAN RESERVATION.

5. Split claim 400 30175060 elements should be the same as claim 400 30136580 except the owner should be MONTANA STATE BOARD OF LAND COMMISSIONERS - FORESTRY AND TRUST LANDS DIVISION, the source should only be UNNAMED TRIBUTARY OF PORCUPINE CREEK, and the point of diversion and place of use should be:

- N2 16, 32N, 40E, VALLEY, on UNNAMED TRIBUTARY OF PORCUPINE CREEK
- SE 16, 32N, 40E, VALLEY, on UNNAMED TRIBUTARY OF PORCUPINE CREEK
- NESE 16, 31N, 40E, VALLEY, on UNNAMED TRIBUTARY OF PORCUPINE CREEK

CONCLUSION OF LAW

The documentation filed by the claimant provides sufficient information to split the claim in this Case as requested, sufficient to contradict and overcome the prima facie claim, and sufficient to resolve the issue remarks without evidentiary hearing. Section 85-2-248(3) and (11), MCA.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusion of Law, this Master recommends that the Court split the claim as requested and make the changes specified in the Findings of Fact to correct the Interlocutory Decree for this Basin. A Post Decree Abstract of Water Right Claim for each claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW

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****Note: Caption Updated 5/28/2026****

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MILK RIVER, BELOW WHITEWATER INCLUDING PORCUPINE CREEK
BASIN 400

Water Right Number: 400 30136580 STATEMENT OF CLAIM
Version: 2 -- SPLIT POST DECREE
Status: ACTIVE

Owners: BUGGY CREEK LIVESTOCK LLLP
PO BOX 1
GLASGOW, MT 59230

Priority Date: AUGUST 28, 1915

Type of Historical Right: USE

Purpose (Use): STOCK

***Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

***Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCKWATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

***Source Name:** UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK

Source Type: SURFACE WATER

***Source Name:** UNNAMED TRIBUTARY OF CHERRY CREEK

Source Type: SURFACE WATER

Source Name: UNNAMED TRIBUTARY OF PORCUPINE CREEK

Source Type: SURFACE WATER

***Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSE	5	32N	40E	VALLEY

***Source Name:** UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		W2	33	32N	40E	VALLEY
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Source Name: UNNAMED TRIBUTARY OF PORCUPINE CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3		W2E2	33	32N	40E	VALLEY
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Source Name: UNNAMED TRIBUTARY OF PORCUPINE CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

4		NWNENE	33	32N	40E	VALLEY
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Source Name: UNNAMED TRIBUTARY OF PORCUPINE CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: LIVESTOCK DIRECT FROM SOURCE
5 W2SW 4 32N 40E VALLEY
***Source Name:** UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: LIVESTOCK DIRECT FROM SOURCE
6 NE 8 32N 40E VALLEY
***Source Name:** UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: LIVESTOCK DIRECT FROM SOURCE
7 S2SENE 8 32N 40E VALLEY
Source Name: UNNAMED TRIBUTARY OF PORCUPINE CREEK
Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: LIVESTOCK DIRECT FROM SOURCE
8 SENESE 8 32N 40E VALLEY
Source Name: UNNAMED TRIBUTARY OF PORCUPINE CREEK
Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: LIVESTOCK DIRECT FROM SOURCE
9 NW 9 32N 40E VALLEY
***Source Name:** UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: LIVESTOCK DIRECT FROM SOURCE
10 NESE 9 32N 40E VALLEY
***Source Name:** UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: LIVESTOCK DIRECT FROM SOURCE
11 S2 9 32N 40E VALLEY
Source Name: UNNAMED TRIBUTARY OF PORCUPINE CREEK
Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: LIVESTOCK DIRECT FROM SOURCE
12 6 10 32N 40E VALLEY
***Source Name:** UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: LIVESTOCK DIRECT FROM SOURCE
13 W2 15 32N 40E VALLEY
Source Name: UNNAMED TRIBUTARY OF PORCUPINE CREEK
Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: LIVESTOCK DIRECT FROM SOURCE
14 6 15 32N 40E VALLEY
***Source Name:** UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means:	LIVESTOCK DIRECT FROM SOURCE
15	W2NW 15 32N 40E VALLEY
*Source Name:	UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
Period of Diversion:	JANUARY 1 TO DECEMBER 31
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE
16	SWSE 15 32N 40E VALLEY
Source Name:	UNNAMED TRIBUTARY OF PORCUPINE CREEK
Period of Diversion:	JANUARY 1 TO DECEMBER 31
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE
17	8 15 32N 40E VALLEY
Source Name:	UNNAMED TRIBUTARY OF PORCUPINE CREEK
Period of Diversion:	JANUARY 1 TO DECEMBER 31
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE
18	N2 22 32N 40E VALLEY
Source Name:	UNNAMED TRIBUTARY OF PORCUPINE CREEK
Period of Diversion:	JANUARY 1 TO DECEMBER 31
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE
19	E2 28 32N 40E VALLEY
Source Name:	UNNAMED TRIBUTARY OF PORCUPINE CREEK
Period of Diversion:	JANUARY 1 TO DECEMBER 31
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE
20	E2SW 28 32N 40E VALLEY
Source Name:	UNNAMED TRIBUTARY OF PORCUPINE CREEK
Period of Diversion:	JANUARY 1 TO DECEMBER 31
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE
21	E2 32 32N 40E VALLEY
Source Name:	UNNAMED TRIBUTARY OF PORCUPINE CREEK
Period of Diversion:	JANUARY 1 TO DECEMBER 31
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE
22	SESW 32 32N 40E VALLEY
Source Name:	UNNAMED TRIBUTARY OF PORCUPINE CREEK
Period of Diversion:	JANUARY 1 TO DECEMBER 31
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE
23	N2 5 31N 40E VALLEY
Source Name:	UNNAMED TRIBUTARY OF PORCUPINE CREEK
Period of Diversion:	JANUARY 1 TO DECEMBER 31
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE
24	SESWSW 5 31N 40E VALLEY
Source Name:	UNNAMED TRIBUTARY OF PORCUPINE CREEK
Period of Diversion:	JANUARY 1 TO DECEMBER 31
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE
25	N2 8 31N 40E VALLEY

15		W2NW	15	32N	40E	VALLEY
16		SWSE	15	32N	40E	VALLEY
17	8		15	32N	40E	VALLEY
18		N2	22	32N	40E	VALLEY
19		E2	28	32N	40E	VALLEY
20		E2SW	28	32N	40E	VALLEY
21		E2	32	32N	40E	VALLEY
22		SESW	32	32N	40E	VALLEY
23		N2	5	31N	40E	VALLEY
24		SESWSW	5	31N	40E	VALLEY
25		N2	8	31N	40E	VALLEY
26		W2	4	31N	40E	VALLEY
27		SWNE	4	31N	40E	VALLEY
28		NWSE	4	31N	40E	VALLEY
29		W2NE	9	31N	40E	VALLEY
30		S2SE	9	31N	40E	VALLEY
31		SW	10	31N	40E	VALLEY
32		W2	15	31N	40E	VALLEY
33		NW	22	31N	40E	VALLEY
34		S2SE	5	32N	40E	VALLEY
35	11		4	32N	40E	VALLEY
36	12		4	32N	40E	VALLEY
37		SWNE	9	32N	40E	VALLEY
38	3		9	32N	40E	VALLEY
39	4		9	32N	40E	VALLEY
40	7		15	32N	40E	VALLEY
41		NENW	9	31N	40E	VALLEY

ALL OR A PART OF THE PLACE OF USE CONSISTS OF FEDERAL PUBLIC LANDS. THE WATER RIGHT USED ON THE PUBLIC LANDS IS APPURTENANT TO THE FOLLOWING PRIVATE LANDS: W2W2 LOT 2, LOT 3, LOT 4, S2NW, W2W2SWNE, W2NESW, SWSW, W2SESW SECTION 1, LOT 1, E2 LOT 2, S2NE, E2SW, SE OF SECTION 2, E2, E2NW SECTION 11, NENE, N2NW, S2N2, NWSE, N2SW SECTION 13, NE SECTION 14, TOWNSHIP 30N, RANGE 40E.

THE USE OF THIS WATER RIGHT IS LIMITED TO LANDS LYING OUTSIDE THE EXTERIOR BOUNDARIES OF THE FORT PECK INDIAN RESERVATION.

Remarks:

SPLIT CLAIM NO. 400 30175060 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MILK RIVER, BELOW WHITEWATER INCLUDING PORCUPINE CREEK
BASIN 400

Water Right Number: 400 30175060 STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners: MONTANA STATE BOARD OF LAND COMMISSIONERS
FORESTRY AND TRUST LANDS DIVISION
PO BOX 201601
HELENA, MT 59620-1601

Priority Date: AUGUST 28, 1915

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCKWATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: UNNAMED TRIBUTARY OF PORCUPINE CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		N2	16	32N	40E	VALLEY

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		SE	16	32N	40E	VALLEY
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3		NESE	16	31N	40E	VALLEY
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			N2	16	32N	40E	VALLEY
2			SE	16	32N	40E	VALLEY
3			NESE	16	31N	40E	VALLEY

Remarks:

THIS SPLIT CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 400 30136580.

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 400 INTERLOCUTORY DECREE ISSUED 01/11/2024.